

BOARD OF ZONING APPEALS

Minutes

July 23, 2002

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., on July 23, 2002, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance: BICKLEY FOSTER, JAMES RUANE, JAMES SKELTON, AND JOHN ROGERS. The following Board members were absent: RANDY PHILLIPS, FLOYD PITTS.

SHARON DICKGRAFE, Law Department present

J. R. COX, Commercial Plan Review/Commercial Zoning -- Office of Central Inspection.

The following Planning Department staff members were present:

DALE MILLER Secretary,

SCOTT KNEBEL Assistant Secretary,

LISA ESTRADA, Recording Secretary.

RUANE: Calls BZA meeting to order.

ESTRADA: Completes role call a quorum of 4 was established.

RUANE: Item #1 on the Agenda, is approval of the BZA meeting minutes for June 25, 2002.

**FOSTER moved SKELTON seconded to approve the "Minutes" of
June 25, 2002.**

MOTION carried 4-0.

RUANE: Proceeding on to Item #2, BZA2002-00010.

KNEBEL, Planning staff: Presents staff report and slides. Staff recommends approval, subject to conditions, in the following report:

SECRETARY'S REPORT

CASE NUMBER: BZA2002-00010

OWNER/APPLICANT: Woodland Lakes Community Church c/o Harlan Buettner

AGENT: Ron's Sign Company c/o John Saindon

REQUEST:

1. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church along an arterial street to exceed 48 square feet in size on property zoned "SF-5" Single-Family;
2. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church to be lighted by a method other than indirect white light on property zoned "SF-5" Single-Family;

3. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to exceed 25 square feet in size on property zoned “SF-5” Single-Family;
4. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to be lighted by a method other than indirect white light on property zoned “SF-5” Single-Family; and
5. Variance to Section 24.04.191 of the Sign Code to permit an identification sign for multifamily dwellings on property zoned “SF-5” Single-Family.

CURRENT ZONING: “SF-5” Single-Family and “MF-18” Multi-Family

SITE SIZE: 24 Acres

LOCATION: Northeast corner of Lincoln and Greenwich

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant is requesting five variances on property zoned “SF-5” Single-Family and “MF-18” Multi-Family. The applicant proposes to develop the property with a church, a day care/preschool, and a senior/assisted living center. The applicant proposes a ground-mounted sign for each of these uses, with all of the signage to be located on property zoned “SF-5” Single-Family. The attached site plan shows the proposed development of the property and the location of the proposed signage. Five aspects of the proposed signage do not meet the requirements of the Sign Code; therefore, the applicant has requested the five variances listed on the first page of this report. The applicant submitted the attached statement pertaining to the five conditions for granting the variances requested.

The Sign Code defines a bulletin board sign as an on-site sign containing the name of the institution or organization, which may include names of persons connected with it; announcements of persons, events, or activities occurring on site; and a greeting or similar message. In the “SF-5” Single-Family zoning district, the Sign Code permits a church to have a 48 square foot bulletin board sign along an arterial street frontage. The applicant is requesting a variance to permit a sign for a church to be 96 square feet in size. The Sign Code also limits the lighting of bulletin board signs in the “SF-5” Single-Family zoning district to indirect white light. The applicant is requesting a variance to permit a sign for a church to have internal illumination.

In the “SF-5” Single-Family zoning district, the Sign Code permits a day care/preschool to have a 25 square foot bulletin board sign along an arterial street frontage. The applicant is requesting a variance to permit a sign for a day care/preschool to be 48 square feet in size. The Sign Code also limits the lighting of bulletin board signs in the “SF-5” Single-Family zoning district to indirect white light. The applicant is requesting a variance to permit a sign for a day care/preschool to have internal illumination.

The Sign Code permits multifamily dwellings such as the proposed senior/assisted living center to have 48 square foot, internally illuminated sign along an arterial street. However, such signage is only permitted on property located within a multifamily zoning district. While a portion of the subject property is zoned “MF-18” Multi-Family and permits the proposed senior/assisted living center, the location of the proposed signage is zoned “SF-5” Single-Family. Therefore, the applicant is requesting a variance to permit a sign for a senior/assisted living center on property zoned “SF-5” Single-Family.

The uses immediately surrounding the proposed location of the sign are mixed in nature, with regional retail uses across I-35 to north, Seltzer Elementary School to the east, single-family residences across Lincoln to south, and undeveloped property across Greenwich to the west. The proposed signage will be obstructed from view from most nearby residential properties by the church building and by extensive evergreen vegetation located on the south side of Lincoln.

ADJACENT ZONING AND LAND USE:

NORTH	“GC” & “LI”	Retail
SOUTH	“SF-5”	Single-family
EAST	“SF-5”	School
WEST	“SF-20”	Undeveloped

The five conditions necessary for approval apply to all variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property is 24 acres in size, which is several times larger than the a typical church site. Additionally, the property has almost 800 feet of frontage along an arterial street and has over 1,000 feet of frontage along an interstate highway, neither of which is typical for a property found in the “SF-5” zoning district.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the view of the sign will be obstructed from view from most nearby residential properties by the church building and extensive evergreen vegetation located on the south side of Lincoln.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign regulation will constitute an unnecessary hardship upon the applicant, inasmuch as the church is located near a heavily traveled, commercial area with several large commercial signs along Greenwich, and the applicant’s ability to relay information regarding events is severely limited in such an environment if the each business is only permitted one small sign with indirect white lighting.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale and has minimal lighting. Additionally, the signage will be located far enough from the intersection of Lincoln and Greenwich as to not create sight distance problems for motorists, and the location of the signage does not encroach into any utility easements or right-of-way.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not oppose the general spirit and intent of the Sign Code inasmuch as the regulations for most uses located along major streets allow for larger signs based on the length of the street frontage; whereas, residential zoning districts do not have such a provision for an increase in sign square footage based on the length of the street frontage. Additionally, the lighting regulations for signs on residentially-zoned property are intended for instances where the sign is located within a residential neighborhood in close proximity to residences, rather than along a major streets and far removed from residences.

RECOMMENDATION: It is staff’s opinion that the signage requested is appropriate for the intended purpose of relaying information regarding events at the church, day care/preschool, and senior/assisted living center. Should the Board determine that the five conditions necessary for the granting of the variances exist, then it is the recommendation of the Secretary that the variances be GRANTED, subject to the following conditions:

1. All signage shall be placed in locations that are in substantial conformance with the approved site plan.
2. Sign A shall be limited to 96 square feet in area, 16' 9" in overall height, and internal illumination by white light. Sign B shall be limited to 48 square feet in area, 14' 3" in overall height, and internal illumination by white light. Sign C shall be limited to 48 square feet in area, 14' 3" in overall height, and internal illumination by white light. All signs shall be of a design that is in substantial conformance with the approved elevation rendering.
3. Portable signage shall not be permitted on the subject property.
4. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variances, unless such time period is extended by the Board.
5. The resolution authorizing these variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

FOSTER: Scott what do you know about land to the west is there anything on the comprehensive plan, pending?

KNEBEL: The Comprehensive Plan indicates that it would be an area where we would anticipate low-density residential development to occur. I don't know if that was if there was a lot of thought put into it or not. I'm not sure if it's realistic to expect that there wouldn't be some commercial development at that interstate or some other type of density use.

RUANE: Scott is there any limitation upon potential development to the west?

KNEBEL: Actually all of these properties are in what's called the Airport Hazard zoning area, which limit the height of buildings that could be developed.

RUANE: How large is the tract to the West?

KNEBEL: I think they have at least 40 acres in one ownership. I don't know exact size.

RUANE: And that owner was noticed?

KNEBEL: That owner, yes.

FOSTER: Scott is there some reason the red line goes around lake?

KNEBEL: That is the legal description I think was originally provided and then it needed to be corrected. This was prepared early on as you can tell it's a BZA2002-10. We've had this application in the works for awhile. The applicant had to make some changes.

RUANE: Scott would you agree with the statement that the applicant is not asking for an additional number of signs, but simply larger readable signage?

KNEBEL: That's correct. They would be permitted these number of signs. They could actually put multi-family sign on the multi-family zoned property, it just wouldn't be able to be seen by very many people.

RUANE: Because it would be so far from Greenwich.

KNEBEL: Right

RUANE: Any other questions for Scott? Now we will hear from the applicant.

HARLAN BUETTNER, Applicant, 411 Odell Court, Andover, Kansas, Senior Pastor of Woodland Lakes Community Church: Where the line is on the corner we own that land, both of these are reserves, reserves for water retention. We don't consider that buildable land that's why we have it shown that way. Why were interested in signage. We never knew Wal-Mart or Lowe's would be there, but it has increased traffic flow. Greenwich will become busier and busier. We feel proper signage would help in traffic flow. Directional signs would help them know where to go. We have a contract on this house with the residents that live there. We have a good relationship with them. We even ran our plans past them. Other than that everything else is in writing.

RUANE: Where is the light pole sign? Is that sign A?

BUETTNER: Where would it be? Pointed to slide where sign is.

RUANE: What does the message board mean to you?

BUETTNER: It helps us get the word out to let them know what's going on in a church. If were having a seminar we can put on that on reader board. We can tell people trying to find out about openings available in daycare and after school programs. Waiving portable signs is not a problem to us.

RUANE: Are they electronic signs, LED type signs?

BUETTNER: No. They would be the changeable letters.

RUANE: Any other questions? Is there anyone else that would like to be heard on this item? I'll bring this matter to the bench for discussion and a decision.

FOSTER: This is at least the 2nd church in the last 3 months we've had that has signs higher than the regulation allow on arterial streets. I think we had problems with 3 in the last 6 months. I would suggest it would be something that the staff would look at whether churches be looked at differently. I agree with Scott that on that west side it's either going to be non residential or be higher density or in any case if it is single family I doubt if any of the houses will face onto Greenwich Road.

RUANE: Help me get to that conclusion. Because that's my concern as well.

FOSTER: Looking at the land use around there I would think it would be possible for something non-residential and also higher density. Notice the houses on the south side; probably none of them face Lincoln. I don't think anybody is going to buy a house on Greenwich Road. Mr. Chairman whenever your ready I can make a motion.

RUANE: A think a motion would be appropriate at this time.

FOSTER moves ROGERS seconds that the Board accept the findings of fact as set forth in the Secretary's Report; and that all five conditions set out in section 2.12.590 (b) of the City Code as necessary for the granting of a variance have been found to exist and the 5

variances be granted subject to the conditions set out in the Secretary's Report, BZA2002-00010.

RUANE: I think this application is reasonable and I'm going to be in favor of it. We are seeing a snowball being created in terms of increasing requests for higher, better, bigger, signs for churches. Generally, at some point were going to have to draw the line. Typically those churches that about 96 circumferential as it goes around town have all requested bigger signs, which we have allowed I believe. Other churches that may not have, may feel they deserve equal treatment. I'm in favor of this. There will come a point in time when we will have to say no.

FOSTER: Mr. Chairman I think your point is well made. These almost look like monument signs. I agree with you.. I think it could get out of hand.

RUANE: What other discussion is there?

MOTION carries 4-0, and the Board adopts the following resolution:

BZA RESOLUTION NO. 2002-00010

WHEREAS, Woodland Lakes Community Church c/o Harlan Buettner, (applicant); c/o Ron's Sign Company c/o John Saindon (Agent), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests:

1. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church along an arterial street to exceed 48 square feet in size on property zoned "SF-5" Single-Family;
2. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church to be lighted by a method other than indirect white light on property zoned "SF-5" Single-Family;
3. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to exceed 25 square feet in size on property zoned "SF-5" Single-Family;
4. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to be lighted by a method other than indirect white light on property zoned "SF-5" Single-Family; and
5. Variance to Section 24.04.191 of the Sign Code to permit an identification sign for multifamily dwellings on property zoned "SF-5" Single-Family.

and legally described as follows:

Lot 1, Block 1, and Reserves "A", "B" and "F", in Cedar View Addition, an Addition to Wichita, Sedgwick County, Kansas.

AND

A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 850 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, a distance of 480 feet; thence west parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, 480 feet to the place of beginning, EXCEPT that portion taken by the Kansas

Turnpike Authority, AND EXCEPT the west 50 feet thereof for road.

AND

A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 635 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, a distance of 223 feet; thence west parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, 223 feet to the point of beginning, EXCEPT the west 50 feet thereof for road. Generally located at the northeast corner of Lincoln and Greenwich.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of July 23, 2002, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique, inasmuch as the property is 24 acres in size, which is several times larger than the a typical church site. Additionally, the property has almost 800 feet of frontage along an arterial street and has over 1,000 feet of frontage along an interstate highway, neither of which is typical for a property found in the "SF-5" zoning district.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the view of the sign will be obstructed from view from most nearby residential properties by the church building and extensive evergreen vegetation located on the south side of Lincoln.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the sign regulation will constitute an unnecessary hardship upon the applicant, inasmuch as the church is located near a heavily traveled, commercial area with several large commercial signs along Greenwich, and the applicant's ability to relay information regarding events is severely limited in such an environment if the each business is only permitted one small sign with indirect white lighting.

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of the Board that the requested variances would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale and has minimal lighting. Additionally, the signage will be located far enough from the intersection of Lincoln and Greenwich as to not create sight distance problems for motorists, and the location of the signage does not encroach into any utility easements or right-of-way.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of the Board that the

granting of the variances requested would not oppose the general spirit and intent of the Sign Code inasmuch as the regulations for most uses located along major streets allow for larger signs based on the length of the street frontage; whereas, residential zoning districts do not have such a provision for an increase in sign square footage based on the length of the street frontage. Additionally, the lighting regulations for signs on residentially-zoned property are intended for instances where the sign is located within a residential neighborhood in close proximity to residences, rather than along a major streets and far removed from residences.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that the following variances are hereby granted:

1. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church along an arterial street to exceed 48 square feet in size on property zoned "SF-5" Single-Family;
2. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a church to be lighted by a method other than indirect white light on property zoned "SF-5" Single-Family;
3. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to exceed 25 square feet in size on property zoned "SF-5" Single-Family;
4. Variance to Section 24.04.190.11 of the Sign Code to permit a bulletin board sign for a day care to be lighted by a method other than indirect white light on property zoned "SF-5" Single-Family; and
5. Variance to Section 24.04.191 of the Sign Code to permit an identification sign for multifamily dwellings on property zoned "SF-5" Single-Family.

and legally described as follows:

Lot 1, Block 1, and Reserves "A", "B" and "F", in Cedar View Addition, an Addition to Wichita, Sedgwick County, Kansas.

AND

A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 850 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, a distance of 480 feet; thence west parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, 480 feet to the place of beginning, EXCEPT that portion taken by the Kansas Turnpike Authority, AND EXCEPT the west 50 feet thereof for road.

AND

A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 635 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, a distance of 223 feet; thence

west parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, 223 feet to the point of beginning, EXCEPT the west 50 feet thereof for road.

The variances are hereby subject to the following conditions:

1. All signage shall be placed in locations that are in substantial conformance with the approved site plan.
2. Sign A shall be limited to 96 square feet in area, 16' 9" in overall height, and internal illumination by white light. Sign B shall be limited to 48 square feet in area, 14' 3" in overall height, and internal illumination by white light. Sign C shall be limited to 48 square feet in area, 14' 3" in overall height, and internal illumination by white light. All signs shall be of a design that is in substantial conformance with the approved elevation rendering.
3. Portable signage shall not be permitted on the subject property.
4. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variances, unless such time period is extended by the Board.
5. The resolution authorizing these variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

RUANE: Before we move on to the Agenda Item #4, let's take a 5 minutes break because I want to go over this new material we just received today.

MILLER: While your doing that, I might explain for the benefit of the people who haven't been here before, we normally have 7 members, and since we have 4 members, it will take a unanimous vote to approve the request. I just wanted to make sure you understood that before we get into the discussion.

RUANE: Ok, we are ready for Agenda #3, BZA2002-00039.

KNEBEL, Planning staff: Presents staff report and slides. Staff recommends denial.

SECRETARY'S REPORT

CASE NUMBER: BZA2002-00039

OWNER: James E. Mead Trust c/o Richard Basore, Trustee
APPLICANTS: Key Management Company c/o Allen Huffman and SC Telcom c/o Janice Fairbairn

REQUEST: Variance to Section 24.04.197 of the Sign Code to increase the maximum size of a building sign from 400 square feet to 1,230 square feet

CURRENT ZONING: "CBD" Central Business District

SITE SIZE: 0.47 acres

LOCATION: North of Douglas and west of Market (125 N. Market)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicants propose to install a 1,230 square foot sign reading "SC Telcom" in 10-foot high letters on the south building elevation near the top of the high-rise office building located at

125 N. Market. The applicants submitted the attached site plan and building elevation rendering to illustrate the proposed signage. The applicants also submitted the attached statement pertaining to the five conditions for granting the variance requested. Essentially, the applicants are requesting a sign larger than permitted by the Sign Code because the applicants want the sign to be readable from Kellogg, located over one-half mile south of the building.

Section 24.04.197 of the Sign Code limits the size of each individual sign in the "CBD" Central Business District to a maximum size of 400 square feet. The proposed sign exceeds the maximum permitted size by over three times; therefore, the applicants have requested a variance to permit the proposed 1,230 square foot sign.

The high-rise office building currently has a 1,430 square foot building sign with changing and movable lettering on each building elevation. These signs were installed prior to the City adopting regulations pertaining to signage; therefore, the existing building signs are non-conforming per the provisions of Section 24.04.085 of the Sign Code. The variance request only addresses the new proposed sign and not the existing "time and temperature" signs.

The high-rise office building is within the environs of a registered historic landmark: the Lassen Hotel. Therefore, the Historic Preservation Board reviewed the request and recommended that the variance be granted per the attached memorandum. However, a recommendation by the Historic Preservation Board may only be used as a basis for granting a variance to the extent that it contributes to one or more of the five factors upon which the BZA may base the granting of a variance.

ADJACENT ZONING AND LAND USE:

NORTH	"CBD"	Office
SOUTH	"CBD"	Office
EAST	"CBD"	Bank
WEST	"CBD"	Bank

UNIQUENESS: It is the opinion of staff that this property is not unique, inasmuch as the subject property is 0.47 acres located within the existing street grid pattern of downtown. The subject property is indistinguishable from the hundreds of other properties within the "CBD" Central Business District that are zoned, platted and developed in the same pattern.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the building currently contains existing signage that is larger and more visually intrusive than the proposed signage with no visible negative impacts on adjacent properties.

HARDSHIP: The applicant indicates that the provisions of the sign regulations constitute an unnecessary hardship because the sign regulations do not permit a sign that makes an impression or is readable from a reasonable distance. It is the opinion of staff that the strict application of the provisions of the sign regulation do not constitute an unnecessary hardship upon the applicant, inasmuch as the sign regulations permit a sign with a maximum size of 400 square feet, which has been sufficient for hundreds of other businesses to use their signage to make an impression and to be readable from a reasonable distance. It is the opinion of staff that the applicant has imposed the hardship indicated in their letter by expecting the Sign Code to allow visibility of signage from over one-half mile away, which in the opinion of staff, is beyond the intent of the regulations and is not a reasonable distance from which signage should be visible.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would adversely affect the public interest, inasmuch as the signage is over three times larger than permitted by the regulations and would lead to expectations by other businesses that signage should be visible from distances of up to one-half mile away. Even if such signage was limited to downtown with visibility from the Kellogg and I-135 freeways, each downtown building could conceivably be covered with bright signage with 10-foot high letters advertising each of the many businesses located within each of the high-rise office buildings. Such signage would detract from the attractiveness of the architecture of the downtown buildings, upon which the public relies for an image of their city. To illustrate this point, many of the country's great cities can be identified simply by the visual image of their downtown skyline and their buildings do not have large signage that detract from the architecture of the buildings.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would oppose the general spirit and intent of the Sign Code inasmuch as the sign regulations are designed specifically for application in instances multiple tenants occupy a high-rise office building. The Sign Code permits up to 20% of the building's elevation to be covered with signage, but limits each individual sign to 400 square feet to prevent large portions of the building from being covered in signage and detracting from the architecture of the building.

Among the purposes of the Sign Code are: the encouragement of signage that is, by their location and design, harmonious to the building and sites which they occupy; a reasonable balance between the need for the sign and advertising while preserving the visual quality of the community; and to provide direction and identification to various businesses. The proposed sign would not be harmonious with existing signage downtown, does not provide any direction or identification that could not be achieved by signage consistent with the code, and is not in scale with other downtown signage. In summary, the intent of the Sign Code is not to provide visibility of signage from over one-half mile away.

RECOMMENDATION: It is staff's opinion that the conditions necessary for the granting of the variance do not exist; therefore, it is the recommendation of the Secretary that the variance to increase the maximum size of a building sign from 400 square feet to 1,230 square feet be DENIED.

RUANE: Any questions? I have one Scott. Do you recall whether there was a similar request having to do with the Corporate Hills building, Raytheon signage went up years ago at the intersection of Douglas and Webb Road?

KNEBEL: I believe that was a variance request of the maximum height. I believe that property zoned Limited Commercial which limits the height to 30 feet.

FOSTER: I remember that case, and it was height. No homes around it.

RUANE: What other questions do you have for Scott?

FOSTER: Scott do you recall, I have been on 5 or 6 years, I been trying to think have we had any cases in the downtown area like that? We've had some along Kellogg, but they are usually related to the motoring public, restaurant or a motel. I don't recall a case like this downtown?

KNEBEL: No, in fact J.R. and I were talking about this after it was filed. We did research and didn't find anything.

FOSTER: You've been here how long?

KNEBEL: I've been here 5 years, but we researched background material as far all the applications filed and applications approved.

FOSTER: I just don't remember any myself.

RUANE: If there's no other questions from Scott, we'll hear from the applicant.

GREG WILLIAMS, Applicant, 320 N. Mars, Wichita, Kansas. I apologize you didn't have the handouts in advance. Our company has been in Wichita for approximately 2 years. In back of your handout there's a financial impact statement to the community. Our staff has 80 people now. Total revenue is up 15 %. Our company has significant financial impact on the community right now. The building in question is the SC Telecom building it's not longer KSB & T. I just want to make that clear. Because of that, that's one of the reasons we would like you to review this again and overturn the denial. The fact the building is unique, it's been the KSB&T building or known Wichita for ever. It's still called the KSB&T building. No one knows what else to call it. The building has been in disrepair for sometime. We occupy the 15th floor. We're preparing to move to the 1st floor. That would give us a total of almost 25,000 square feet that we occupy in the building at one time. At one time it was the tallest building in the state. That makes it pretty unique. The only marquee in Wichita that's on top of a building scrolling. It does make the building a great marketing tool. The hotel right next door, we have paperwork from the hotel, they do not feel it would have an impact on them. We tried to enforce a positive impact that really focus's on skyline and downtown fabric that helps in economic development of downtown. We feel for our business that the best thing for us, we are looking at doubling our staff within the next 3-5 years. We have a video I'd like to show, it's very short.

RUANE: Any questions? Let's go with our next speaker.

JANICE FAIRBAIRN: 1620 N. Waco. I just want to make one additional point in the back. One of the things in reading over the ordinance and trying to interpret some of the ambiguities in it not only the 20% up to 400 square feet also describing how to determine the surface of the sign. We were under the initial understanding it was total height versus total width. When we don't have a background to the sign it's the surface area of everything that is considered lit up, or as a sign, if we draw a square around and don't count the negative space in between, the variance we are requesting is only 676 square feet.

RUANE: So for it to be clear the 676 foot calculation relates to the 1200?

FAIRBAIRN: Yes.

RUANE: Anyone else to speak on behalf of the applicant or otherwise on this agenda item? If not then, lets bring begin the Board question and discussion.

FOSTER: Scott, and I should have asked you earlier, the report from the Historic Preservation Board really didn't say why or what it just said they approved the appropriateness. I assume it faces south away from the former Lassen hotel. They gave no reason is what I'm pointing out.

KNEBEL: Unfortunately I was unable to attend that meeting. I'm not sure what their reason is either.

FOSTER: Since I use to serve on that board, I'm going to make the assumption that because the sign faces away from the landmark that that's probably what they had in mind. I am curious J.R. is that museum sign legal?

COX: Yes, to the best to my knowledge.

FOSTER: It really looks big.

COX: It's a large building on a large fenced area. Those letters originally came in, it was submitted double it's present size.

FOSTER: The letters are larger than the proposed telecom one.

COX: The pictures are deceiving. To the best of my knowledge it's right at 400.

FOSTER: Maybe its because of the lighting on back that draws attention.

COX: That night picture.

FOSTER: Do I understand in their video they showed a moving sign on top.

KNEBEL: That's the current marquee sign that's there today.

APPLICANT: Our logo would not appear on the moving sign. It will just have time sensitive advertising.

KNEBEL: But the sign will remain there. You could put your business name there if you choose.

APPLICANT: We cannot. We can only use 10 percent of signage. It would cost us \$350 a day. We do not own the building. The owner will not allow us to do that.

RUANE: And I'll ask this question of anybody who might know, will there be any other tenant signage on this building?

APPLICANT: No.

RUANE: You have the exclusive rights for tenant signage.

KARI SCHMIDT: The building was rebranded. There was an article in the Business Journal about a month ago. There's already a sign that is affixed on Market Street. The building has been rebranded. SC Telecom does not own the building and that's why they don't have the ability to use that marquee they don't have control over that. The building itself has been rebranded. Those are 11 foot letters on the marquee.

ROGERS: I have a question for staff. Scott in this picture of the applicant's handout, the picture to the far right that says actual ordinance size. Am I understanding that's what the applicant could put up without a variance.

KNEBEL: I believe the applicant is under that impression. Yes. That's not actually true.

RUANE: Scott, you disagree with Janice's calculations of that size of the sign?

COX: I might be able to answer that since I'm the one who does that. We would count the entire area. A single sign may be broken into 2 separate areas for instance S and C could be grouped together and Telcom could be grouped together, but we would count the whole area.

RUANE: Any other questions before we begin our discussion?

FOSTER: On the actual ordinance size in the upper right corner that the chairman referred to. The time and temperature letter are larger than this sign. Is that because they're grouped there as 400 feet or less?

KNEBEL: The time and temperature marquee does not conform with the Sign Code.

FOSTER: You could not put a new one in.

KNEBEL: The non-conforming regulation would allow you to replace the existing one, but you could not build a twin build and put the same size on top.

ROGERS: Hypothetically, could this company decide to put there name on the revolving signage currently there. Would that be allowed?

APPLICANT: The building owner would not allow that.

KNEBEL: There's no prohibition in the sign code that would prohibit any specific message from being displayed.

MILLER: They are indicating there's a financial implication.

APPLICANT: It would cost us \$85,000 to put up the sign. That's including electric work. If we lease that sign, in 284 days, we would have spent the same amount of money.

ROGERS: Very good, thank you.

RUANE: I think this building has, and has had, for sometime a significant identity problem. We all still refer to it as the KSB&T building. KSB&T hasn't been in existence for 10 years, or so. The efforts to at least in the business community have it referred to as the 125 building has failed miserably. I would like to see this building shake it's old tired identity in favor of something new. I don't know the last time you were in it, but parts of it are very tired and worn.

FOSTER: Are you saying it's unique in some way?

RUANE: Yes.

FOSTER: Don't we have other buildings downtown like that are in the same boat so to speak?

RUANE: I think we do. But I don't think unique and singular are equivalent terms.

FOSTER: Let me try to broaden the topic. I read their material before I came to this meeting. I made the note that it seemed to me like it was the desire to change the sign ordinance rather than to request the variance. It starts out this sign is unique because it raises the bar. It would change the Wichita skyline and bring the City into the 21st Century. If you read on down it's talking about Wichita ought to get with it and change signs and that's not the purpose of a variance. A variance needs to be unique to that

location and need. The 400 sq. ft. was set years ago. Have we ever had a downtown group that felt this was a problem for the image downtown for signage.

RUANE: They generally don't keep the same name or group for very long.

FOSTER: This request goes beyond the variance. It's a request to change the skyline. I'm not really talking for or against it. I don't see this as a variance for downtown. It's more than that.

RUANE: On our agenda is a request for a variance. We don't have the authority to do anything to amend the Sign Code, but within our authority is the power to approve variances from the Sign Code. Even if they wanted us to change the sign code we couldn't anyway.

SKELTON: Mr. Chairman to speak to your statement was about the building having an old, tired image problem. It has an existing marquee on top. I'm not sure with the way the Sign Code as it is now, that modernized structure wouldn't be achieved. I think that speaks to your point.

RUANE: 20,000 square feet you occupy in the building, is that correct?

APPLICANT: 25,000 square feet.

RUANE: I don't know anybody else that has come into downtown quite sometime that has taken a new tenant, new employer, new entity that has taken anywhere close to that much space in any building downtown. Do you think that's a fair statement?

FOSTER: I'm having trouble relating it to the condition.

RUANE: That would be relating to a condition of public interest.

SKELTON: I don't know if ..

RUANE: Do you know that it's not?

SKELTON: There's no sign on building now. Obviously they've been successful.

APPLICANT: That's with no help from building. It's still referred to as the KSB & T building.

SCHMIDT: I don't know what the order is, I apologize, but those of you who lived in Wichita forever and I'm one of them, that old marquee always said KSB&T. The building was named by a 11 foot marquee until they sold that building. There was no need anything else. It's been that way since that marquee was put on that building. Today, after they sold, it changed when people were renting advertising.

FOSTER: I do recall having a discussion a long time ago. There was a time when regulations went from 35 feet to 25 feet. I don't know how much it plays in the area of what we do as variance. One of the reasons for lowering the sign, and not just getting larger, that puts a terrible burden on those who can't afford or don't have those kind of signs. If all of them have a chance at 400, that's kind of the norm. If we open it up to larger and larger signs, we are having people get into some horrendous cost in getting these larger signs put up in order to identify their building to make them unique. A lot of the signs that this board has heard over the years that I been on, have been on Kellogg or on the interstate where there's some uniqueness to it or cars going by at 65 miles an hour. We have not had this question

come up. It seems to me people seem satisfied there's a workable amount here, a lot of time to do that. I think this is a bigger question, is what I'm getting at. Is it our job to make sure that everybody can see a sign from half a mile away? I'm not for or against their thoughts. I think it's outside and larger than what we have here to consider with on one particular sign.

RUANE: Do you know what solution as a board we might have that for that?

FOSTER: I know what I'd do. I'm a planning consultant and I do zoning regulations. I ask what problems the Board of Zoning Appeals have had throughout the years. Find out if they should be solved by the zoning regulations rather than continue having these.

MILLER: Seems like we made amendments nearly ever year, but may not be that often.

FOSTER: Sometime that you do bring it forth, and I think this board ought to be asked if we encounter anything that ought to be recommended. I'm not sure if this should be done.

RUANE moves that BZA2002-00039 be approved with findings other than those stated in the Secretary's Report. Find that the following facts exist. Uniqueness criterion - the property is unique because one factor is it already has the 11-foot marquee at the top of it; therefore, this sign or a smaller sign this tenant would be allowed to erect must compete with that marquee sign of the attention drivers on Kellogg. Secondly, I believe the building is further unique for identify crisis and that is this building has always been known as KSB& T building, and that it would be good for building and the applicant if the sign would be allowed and that another part of the uniqueness this particular tenant is going to occupy 25,000 square feet of building.

The staff report found with regard to adjacent property the granting of the variance would not adversely affect the rights of adjacent property owners and I concur with reasons stated by staff in their recommendation on that point.

With regard to hardship criteria, to my point of view this is actually quite similar to the uniqueness. We need to look especially to what this business is investing in downtown and what they are doing to develop a presence of downtown what they can contribute to downtown growth and development. Downtown property owners would certainly agree that it's very difficult to lease office space as SC Telcom has taken.

With regard to the public interest, if naming of buildings and signage are what it takes to attract tenants or big tenants buildings in the downtown area. The tax based downtown has deteriorated significantly, if you look at appraised value of downtown you would well understand. Buildings downtown are losing value until they are leased up again, which would be in the public interest. Our tax structure will not function as originally designed.

Spirit and intent: the sign regulation are designed specially for application and instances where multiple tenants occupy a high rise building where we've heard this would be the only tenant sign allowed I believe there was a representation of least you have that exclusive right.

SUBJECT TO THE FOLLOWING CONDITIONS:

1) If the sign erected would conform exactly to the representations specifications submitted in the application. 2) No other tenant sign allowed on building this building period and if somehow the owner of the building would allow someone else to erect a sign then your investment in this sign might somehow be compromised. 3) No other tenant sign other than this application and as it exist today over the east doors, with the exclusion or with the allowance of the marquee sign to continue. 4) The applicant must obtain all necessary permits and construct and erect the sign within 1 year of this approval, and that the applicant be aware that this approval, is null and void if the applicant fails to comply with any one of these conditions. I wish it were shorter, but that's the motion.

Motion dies for lack of second.

ROGERS: Mr. Chairman. I think I've heard everyone say about this case. I sit here and look at the picture of downtown, and I picture a case scenario for all of the people with tall buildings come to us and apply for a sign 3 times what they have now, and I don't think I like what that picture would look like, even though I agree with everything you said. I just have a problem with a sign that large, and the fact that it is trying to be read from Kellogg. It's real easy to find Kellogg from the exit. That's my feeling. I can't support the size that they are wanting, even though I agree with all your points.

FOSTER: Mr. Chairman, I agree with the points Mr. Rogers was making. I do think when staff recommends 4 out of 5 of the findings to not meet the conditions, we have to look at it a little closer. It's not just 50% increase. It's a 300% increase. It puts a burden on other buildings downtown. I'm not against it. I think it's larger than this board can handle. I think we can make a recommendation that the matter be studied, ask the downtown groups. I'm not sure we can specify that they couldn't have other signs.

KNEBEL: Actually you could. The owner is required to request the variance.

RUANE: Unless I am mistaken, we have heard today you own the exclusive rights to place a sign on this building.

FOSTER: Scott has clarified that the management has made the request. I think it's something bigger than what we do, and it sets a pattern for all of downtown. We should send to other bodies that could consider that.

RUANE: I am in favor of establishing any new and different pattern in downtown. Doing it the way we've always done it has taken us to where we are.

FOSTER: I don't disagree with your premises. I'm prepared to make another motion.

RUANE: No, I think the motion is the appropriate way to guide the discussion.

FOSTER moves ROGERS seconds, the variance BZA2002-00039 be denied.

RUANE: Discussion on the motion?

ROGERS: Have we not in the past given the applicant an opportunity to come back to us with a revision or another set of plans for us to revisit?

FOSTER: Usually it's some discernible alternative or something that arises in the meeting that might be appropriate to look at.

ROGERS: It's never been something we offered. Seems like we suggest that in a case we supported, but we did not agree.

MILLER: It certainly would be in your purview to ask the applicant if they think there's compromises based on the discussion they've heard if they think they could come up with a design that might be more in keeping with what you've discussed and want to come back for, as opposed to what appears to be an outright denial at this point and that's really up to them.

ROGERS: When we come to these meetings, we never know the discussion with applicants and how close you were to an agreement.

KNEBEL: In this particular instance the applicant did not avail themselves of any preapplication discussion. It was simply filed in this matter.

MILLER: Probably not worth bringing back and discussing anymore, and your option is to go to court.

SCHMIDT: I heard something today that I hadn't heard before. I think Mr. Cox said you can split a signage. What was it you said earlier?

COX: In determining gross surface area of a sign the sign face can be split into areas for calculation purposes. Each area can be enclosed by a line enclosing the perimeters of that area.

DICKGRAFE: It's probably not going to get you to the size of the sign that your requesting today, but you might be able to utilize that to come back. And I want to make something clear to the applicant that we normally say what vote is required have affirmative vote of a majority of the board members, which in this case would be 4 to grant the variance. If the vote is 3 to 1 today, it is still denied.

SCHMIDT: I don't know what the client will want to do.

DICKGRAFE: And you have a recourse if it's denied.

SCHMIDT: I just want to make sure that we are understanding. We don't know all the details because you sit here all the time. I just want to make sure I understand the 400 foot limitation as it relates to the 20%. Is it possible to take a building that has 44,000 square feet on a face, for example, would that ordinance allow multiple companies to have 400 sq foot signs that don't exceed total 20% of the total face?.

COX: That is correct, your allowed 20% of the building elevation. Multiple tenants could have signs.

SCHMIDT: Okay

FOSTER: Your using up the space for 3 tenants for one sign. I think the chairman has a point. It's to identify a building as well as the company. I can understand Mr. Rogers point. I still have the problem about distance. The question is, is this the matter of a smaller sign or a different design?

RUANE: We have a motion and a second. We have a suggestion that the applicant might want to bring this back.

FOSTER: If they don't have a time problem, and I am not sure what they can achieve. Size is the real question. I don't know whether dividing it up is possible.

ROGERS: I don't want to mislead the applicant. I was just trying to find a way where there could be a compromise here, and it to be a win-win situation. On the other hand, I don't want to mislead the client, if you brought back the proposal next month that means I would vote for it. I try to look at all factors. I just wanted to make it a point.

RUANE: J.R. in the motion of splitting the sign in 2 that essentially would make the void between C and T not count towards the gross square footage, and have no other impact.

COX: Right. I don't know what affect it would be, it may not be much.

RUANE: Tell me J.R. if I'm figuring this right 10 times 10 or 100?

COX: The area that will be missing in the sign. Approximately without having actual individual dimensions, it is hard to tell from the drawing.

RUANE: Are we all following these adjusted calculations?

SCHMIDT: I think you've hit on the same thing what were struggling with, that if you compare it with the museum sign, that is the best comparison. It's the negative space between the letters that's causing the dimension problem. Ten foot letters in the proposal, which our understanding is the size of the letter on the museum sign, but because it's spread out it causes dimensions problems. If you measure the full width and depth of the full sign to be outside the 400 square feet, even though the individual letters and negative space is more than what is on the museum sign. The museum sign that has the back lighting makes it look like a whole lot bigger. A lot of negative space on sign.

RUANE: Turn to page that has the 676 square feet on bottom. Moving from left to right, is the gap between CTT the 10 x 10 void that would be the reduction, split and considered as 2 separate sign under J.R.s approach.

COX: It would still be one sign but the area reduced. That would be off the 1230 square feet not the 676.

RUANE: I want to handle this in best fairness to all, I think that my position is pretty clear as well, if the applicant would prefer to have this matter passed on to next month's agenda. Do we already have items on next month's agenda?

KNEBEL: I don't recall.

RUANE: Could we find that out?

FOSTER: Do you have a problem with timing? I'm sure you want to get it done, is it critical to next month?

APPLICANT: We would like to get done within the next year.

FOSTER: August is a bad meeting month, if we don't have to meet.

DICKGRAFE: We have difficulty getting a quorum sometimes in August.

RUANE: Sharon would you feel comfortable explaining what the options are from here, unless there's unanimous approval today.

DICKGRAFE: They would have the opportunity to appeal that denial to the District Court, where they could make a number of their legal arguments to size, what is a sign, how do we figure this. This matter could be deferred 30 days or 60 days, which would allow applicant to work with staff for an option that would be more palatable to the board even if it is denied there might be an opportunity for you to bring back on a rehearing. You would need to show new plans that it changed since last hearing, it could defer the motion. It is up to applicant. If the applicant wants the board to go ahead and vote, you will have a decision today or whether you want to set it over 30 or 60 days.

RUANE: Sharon in the past has the 10% change been material enough for re-submittal?

DICKGRAFE: We've changed that as far as the rehearing and now it reads no request for rehearing should be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing.

RUANE: It's not a materiality of change.

DICKGRAFE: We tightened that up with the revised Bylaws recently.

SCHMIDT: If we look at the sign on site definition and it talks about something being strictly incidental to a lawful use of a building. If we come back and attempted to persuade it is not just advertising. Is that something that this board would take into account for a variance? Is that something that has to go back because it's interpretation of language in the ordinance itself.

DICKGRAFE: That is not something this Board can do. What you could do ask for an interpretation of Code from the Zoning Administrator. You have the right to appeal. Unfortunately that comes back to this Board. Eventually we would look at that interpretation that standard is a little different than the variance standard.

SCHMIDT: That would go to whom, the Zoning Administrator?

DICKGRAFE: You would ask for a written interpretation regarding that particular Code.

RUANE: But we could not take into account and finding uniqueness.

DICKGRAFE: I would say no. From my understanding you're asking this Board to interpret the Code which is not the function of this Board.

MILLER: There isn't a closing until Friday. At this point we don't have anything.

FOSTER: Since I made the original motion, I can't make another motion. Mr. Rogers seconded the motion. Neither one of us can make another motion. I would certainly vote if they would like to have it deferred for two months. It's an important question. It affects the whole downtown. If you all would

like to make a motion to defer for two months to allow them to modify their request I certainly would be in favor.

SKELTON moves RUANE seconds, a substitute motion to defer BZA2002-00039 for 2 months to September's regularly scheduled meeting.

MOTION carries 4-0.

RUANE: Any discussion on the motion? I would very much encourage staff and the applicant to have some pre-hearing meetings on this. Maybe the various perspectives that came out today could reconciled.

FOSTER: On the other motion I suggested I'd like to wait 2 months to see what were dealing with and if you all would be thinking about should this be something we recommend back.

RUANE: What's the best way to be flagged in the minutes?

FOSTER: Agenda Item following their request for the September meeting.

RUANE: Let's have Bickley's motion follow this Item on September agenda.

SCHMIDT: May I ask when is the meeting in September?

DICKGRAFE: September 24th.

RUANE: This matter is concluded, we'll see you in 60 days.

COX: No report for this month. Introduced Kortney Capello with Central Inspection. He will attending the next few meetings.

Ended at 3:45